

**UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF MISSOURI  
EASTERN DIVISION**

In The Matter Of:	)	
	)	
Marvin O Teer, Jr.	)	Case Number: 12-47431-659
	)	
	)	
Debtor	)	Chapter 13
	)	
U.S. Bank, National Association, or its successors and assigns	)	Motion to Lift Stay filed by U.S. Bank, National Association
	)	
Movant	)	
	)	
vs.	)	Millsap & Singer, LLC
	)	612 Spirit Drive
	)	St. Louis, MO 63005
Marvin O Teer, Jr.	)	(636) 537-0110
	)	
	)	<b>Hearing Date: August 19, 2013</b>
Debtor	)	<b>Hearing Time: 10:00 AM</b>
	)	<b>Objection Deadline: August 12, 2013</b>
Marvin O Teer, Sr.	)	
	)	
	)	
Co-Debtor	)	
	)	
and	)	
	)	
John V. LaBarge, Jr.	)	
	)	
Trustee	)	
	)	
Respondents	)	

**NOTICE OF HEARING AND  
MOTION FOR RELIEF FROM AUTOMATIC STAY,  
RELIEF FROM CO-DEBTOR STAY, OR  
IN THE ALTERNATIVE, TO DISMISS**

**WARNING: ANY RESPONSE OR OBJECTION MUST BE FILED WITH THE COURT  
BY AUGUST 12, 2013 (SEE L.B.R. 9013-1). A COPY MUST BE PROMPTLY SERVED  
UPON THE UNDERSIGNED. FAILURE TO FILE A TIMELY RESPONSE MAY**

**RESULT IN THE COURT GRANTING THE RELIEF REQUESTED PRIOR TO THE HEARING DATE.**

**THE HEARING TO BE HELD ON THE DATE AND TIME ABOVE BEFORE THE HONORABLE KATHY A. SURRATT-STATES, IN THE UNITED STATES BANKRUPTCY COURT, EASTERN DISTRICT OF MISSOURI, THOMAS F. EAGLETON U.S. COURTHOUSE, 111 SOUTH TENTH STREET, FLOOR 7, NORTH COURTROOM, ST. LOUIS, MO 63102.**

COMES NOW, U.S. Bank, National Association and for its Motion for Relief from Automatic Stay, Relief from Co-Debtor Stay, or, in the Alternative, to Dismiss states as follows:

1. On August 1, 2012, Debtor filed a Petition under Chapter 13 of the Bankruptcy Code. John V. LaBarge, Jr. is the duly appointed and qualified Trustee in this case.

2. U.S. Bank, National Association is the holder of a secured claim in this proceeding by virtue of one Promissory Note dated July 26, 2002 in the original principal amount of \$150,000.00. A copy of said Note has been electronically attached to this document as Exhibit A and is made a part hereof by this reference.

3. Said Note is secured by a Deed of Trust dated July 26, 2002 and recorded in Book 1790, Page 0887 constituting a first lien on real estate owned by the Debtor. Said property being commonly known as 4326 W Pine Blvd, Saint Louis, MO 63108; more particularly described as follows:

A LOT IN BLOCK 3906 OF THE CITY OF ST. LOUIS, MISSOURI, HAVING A FRONTAGE OF 40 FEET ON THE SOUTH LINE OF WEST PINE BOULEVARD, BY A DEPTH SOUTHWARDLY OF 213 FEET 2-1/4 INCHES TO AN ALLEY, 20 FEET WIDE, BOUNDED EAST BY A LINE 245 FEET 7 INCHES WEST FROM BOYLE AVENUE.

A copy of said Deed of Trust, which is recorded in the St. Louis City Recorder of Deeds Office, has been electronically attached to this document as Exhibit B and is made a part hereof by this reference.

4. Movant seeks to enforce said Note and Deed of Trust as by law allowed. No creditor or Trustee of the estate has any interest in said realty superior to the rights of Movant.

5. This Court previously entered its Order pursuant to 11 U.S.C. Section 362(a) prohibiting, among other things, any act to enforce any lien against the property of the estate and any act to obtain possession of property of the estate.

6. As of July 8, 2013, the current pay off on said note is as follows:

Principal	\$128,296.62
Interest	\$11,973.91
Escrow	\$12,013.42
Suspense	(\$20.20)
MFR Attorney Fees	\$600.00
MFR Attorney Costs	\$176.00
Recoverable balance	\$6,769.50
Other fees	\$285.00
Total Pay Off	\$160,094.25

7. The Chapter 13 Plan filed by the Debtor calls for treatment of the secured claim with payments being made by the Debtor. Monthly post petition payments are owing and delinquent from October 1, 2012 to the present. The following are the payments that are delinquent as of July 8, 2013:

1 payments @ \$1,579.80	\$1,579.80
5 payments @ \$1,740.94	\$8,704.70
4 payments @ \$2,391.90	\$9,567.60
MFR Attorney Fees	\$600.00
MFR Attorney Costs	\$176.00
Inspection Fee	\$120.00
Suspense	(\$20.20)
Total Arrearages	\$20,727.90

The next payment under the terms of the Note will come due on August 1, 2013 and is in the amount of \$2,391.90. A post-petition payment history has been electronically attached to this document as Exhibit C and is made a part hereof by this reference.

8. The aforesaid realty has depreciated in value while in possession of the Debtor. There is no equity in said property for the benefit of the Debtor. Such property is not necessary for an effective reorganization.

9. Good and sufficient cause exists in this case to modify the automatic stay of Section 362 for the reason that:

(a) Post-petition payments to U.S. Bank, National Association have not been paid by the Debtor.

(b) U.S. Bank, National Association does not have adequate protection for its interest in said real estate.

(c) If U.S. Bank, National Association is not permitted to foreclose its security interest in said real estate, it will suffer irreparable injury, loss and damage.

(d) The Chapter 13 plan with respect to U.S. Bank, National Association was not proposed in good faith as required by 11 U.S.C. Section 1325(a)(3) notwithstanding confirmation by the Court.

10. Movant specifically requests permission from this Honorable Court to communicate with Debtor and Counsel for Debtor to the extent provided for under applicable nonbankruptcy law.

WHEREFORE, Movant prays that this Court terminate the automatic stay and co-debtor stay in regard to the realty in order to permit Movant, or its successors and assigns to proceed with foreclosure on the aforesaid property, to pursue its remedies under state law in connection with the aforesaid Deed of Trust and Note, and to pursue its remedies under state law for possession of said property after foreclosure and for an order that the relief from the automatic stay is not stayed pursuant to Rule 4001 for fourteen (14) days. In the alternative, Movant prays that this Court dismiss this case for

failure to abide by the terms and conditions of the Chapter 13 plan, and for such other relief as is appropriate and just.

Dated July 23, 2013

Respectfully Submitted,  
Millsap & Singer, LLC

/s/ William T. Holmes, II

Cynthia M. Woolverton, #47698, #47698MO

Michael J. Wambolt, #51231, #51231MO

William T. Holmes, II, #59759, #59759MO

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St. Louis, MO 63005

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Attorneys for U.S. Bank, National Association

## **CERTIFICATE OF SERVICE**

I certify that a true and correct copy of the foregoing document was filed electronically on July 23, 2013, with the United States Bankruptcy Court, and has been served on the parties in interest via e-mail by the Court pursuant to CM/ECF as set out on the Notice of Electronic filing as issued by the Court or in the alternative has been served by depositing a true and correct copy of same enclosed in a postage prepaid, properly addressed envelope, in a post office official depository under the exclusive care and custody of the United States Postal Service within the state of Missouri on those parties directed by the Court on the Notice of Electronic Filing issued by the Court as required by the Federal Rules of Bankruptcy Procedure and the Local Rules of the United States Bankruptcy Court.

/s/ William T. Holmes, II

### **Electronic Mail Notice List**

The following is the list of attorneys who are currently on the list to receive e-mail notices for this case.

Katie M Westerfeld

John V. LaBarge, Jr.

Office of the United States Trustee

### **Manual Notice List**

The following is a list of parties who are not on the list to receive e-mail notices for this case (who therefore require manual noticing).

Marvin O Teer, Jr.  
4326 West Pine Blvd  
Saint Louis, MO 63108

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St. Louis, MO 63108